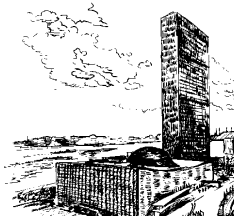


## Part 6



## Legal Developments

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### International Court of Justice (ICJ)

The ICJ is the principal judicial organ of the United Nations. The Court decides cases submitted to it by states and gives advisory opinions on legal questions at the request of international organizations authorized to request such opinions. In recent years, the Court has had more cases on its docket than ever before.

The ICJ is composed of 15 judges, no two of whom may be nationals of the same state. During 1999, the Court was composed as follows: Stephen M. Schwebel (United States—President), Christopher G. Weeramantry (Sri Lanka—Vice President), Mohammed Bedjaoui (Algeria), Shigeru Oda (Japan), Gilbert Guillaume (France), Raymond Ranjeva (Madagascar), Geza Herczegh (Hungary), Shi Jiuyong (China), Carl-August Fleischhauer (Germany), Abdul G. Koroma (Sierra Leone), Vladlen S. Vereshchetin (Russia), Rosalyn Higgins (United Kingdom), Gonzalo Parra-Aranguren (Venezuela), Pieter H. Kooijmans (Netherlands), and Jose F. Rezak (Brazil).

The UN General Assembly and the Security Council, voting separately, elect the Court's judges from a list of persons nominated by national groups on the Permanent Court of Arbitration. Judges are elected for nine-year terms, with five judges elected every three years. Elections for the Court were held during November 1999. Judges Guillaume, Ranjeva, Higgins, and Parra-Aranguren were reelected. Ambassador Awn Al-Khasawneh (Jordan) was elected to fill the seat previously held by Judge Weeramantry. In addition, during November 1999, Judge Stephen M. Schwebel (United States) indicated his intention to resign from the Court in February 2000, following the completion of his three-year term as President of the Court.

The United States has been involved in the following matters in the Court since the last report.

### Iran v. United States of America

On November 2, 1992, Iran brought a case against the United States claiming that U.S. military actions against Iranian oil platforms in the Per-

sian Gulf during the conflict between Iran and Iraq violated the 1955 Treaty of Amity between the United States and Iran. The incidents cited by Iran followed attacks by Iranian military forces against United States naval and commercial vessels in the Gulf. The United States filed a Preliminary Objection to the Court's jurisdiction, which was considered at hearings in September 1996. In December 1996, the Court decided that it did not have jurisdiction under two of the three treaty articles invoked by Iran, but that it had jurisdiction to consider the third treaty claim. On June 23, 1997, the United States filed its Counter-Memorial and a counter-claim. Following further proceedings regarding the counter-claim, the Court held on March 10, 1998, that the counter-claim was "admissible as such" and directed the parties to submit further written pleadings on the merits. Following two requests for extensions, Iran filed its Reply and defense to the U.S. counter-claim March 10, 1999. The U.S. Rejoinder is due on November 23, 2000.

### **Libyan Arab Jamahiriya v. United States of America**

On March 3, 1992, Libya brought cases against the United States and the United Kingdom charging violations of the 1971 Montreal (Air Sabotage) Convention. Libya claimed that the United States and the United Kingdom interfered with Libya's alleged right under the Montreal Convention to try two persons accused by U.S. and Scottish authorities of bombing Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988. On June 20, 1995, the United States filed Preliminary Objections to the Court's jurisdiction in the case; the United Kingdom also filed Preliminary Objections. The Court held hearings on both sets of Preliminary Objections October 13–22, 1997. On February 27, 1998, the Court denied some of the U.S. and U.K. Preliminary Objections and held that others could be decided only at the merits stage of the case. The Court then ordered the United States to file its Memorial by December 31, 1998. On December 8, 1998, the United States asked the Court for a three-month extension, in order to ascertain whether Libya would respond to an initiative by the United States and the United Kingdom proposing creation of a Scottish court in the Netherlands to try the two suspects. By Orders dated December 17, 1998, the Court extended the filing date for the U.S. and U.K. Counter-Memorials until March 31, 1999. The United States and the United Kingdom both filed Counter-Memorials on that date. Shortly after, on April 5, the two suspects arrived in the Netherlands in the company of the Legal Counsel of the United Nations. They were detained by Netherlands authorities and were then extradited to the custody of Scottish authorities for eventual trial in a Scottish court constituted in the Netherlands. In June 1999, the Court held a meeting with the parties to both cases to discuss further scheduling in the two cases in light of these developments. The Court subsequently ordered that Libya file its Replies to the U.S. and U.K. Counter-Memorials by June 29, 2000. The dates for the U.S. and U.K. Rejoinders were left to be determined at a future time.

### **Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights**

On August 5, 1998, the UN's Economic and Social Council (ECOSOC) adopted a resolution requesting an advisory opinion from the ICJ concerning the privileges and immunities of Dato' Param Cumaraswamy, the UN Human Rights Commission's Special Rapporteur on the Independence of Judges and Lawyers. ECOSOC was concerned that the Special Rapporteur had not been granted immunity from libel suits in Malaysian courts based on statements in an interview that were related to his mandate as Special Rapporteur. Pursuant to the Court's Rules, the United States filed a written statement supporting the Special Rapporteur's immunity from suit on October 7, 1998, and subsequently filed comments on the written statements filed by other governments. The Court held a hearing December 7–10, 1998. On April 29, 1999, the Court issued an advisory opinion concluding, among other things, that the Special Rapporteur was entitled to immunity from legal process for the statements made in the interview, and that the Government of Malaysia was obligated to inform Malaysian courts of the Secretary General's finding that the Special Rapporteur was entitled to immunity.

### **Germany v. United States of America**

On March 2, 1999, Germany filed a case against the United States based on the failure of Arizona authorities promptly to inform Walter and Karl LaGrand, two German nationals convicted in Arizona of a 1982 murder and attempted bank robbery, of their right to have German consular officials notified of their arrest and detention. (The LaGrand brothers were German nationals who had moved to the United States when they were aged three and five years and had lived in the United States almost continually thereafter.) The case was filed the day before the scheduled execution of Walter LaGrand in Arizona; Karl LaGrand had been executed previously.

Germany accompanied the filing of its case with a request for the Court to indicate provisional measures against the United States. On March 3, acting without a hearing and without receiving the substantive views of the United States, the Court issued an order stating that "the United States of America should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings." This order was issued a few hours before the scheduled execution. It was rapidly communicated to the Governor of Arizona by the Department of State. The State of Arizona executed Mr. LaGrand later on March 3, after the U.S. Supreme Court declined to intervene. On March 5, the ICJ ordered Germany to file its Memorial in the case by September 16, 1999, and the United States to file its Counter-Memorial by March 27, 2000.

## **Yugoslavia v. United States of America**

On April 29, 1999, proceedings against the United States were instituted in the name of the Federal Republic of Yugoslavia. At the same time, the Federal Republic of Yugoslavia brought related cases against nine other NATO allies (Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal, Spain, and the United Kingdom). As to the United States, the essence of the case was that U.S. involvement in the NATO air campaign in the former Yugoslavia violated U.S. obligations under the Convention on the Prevention and Punishment of the Crime of Genocide. The Federal Republic of Yugoslavia asked the Court to indicate provisional measures directed against continuation of the NATO air campaign in all ten cases.

The United States took part in public hearings held by the Court May 10–12, in the ten related cases. The United States argued that the activities complained of were not genocide and that the Court in any case lacked jurisdiction over the claims against the United States under the Genocide Convention. This is because the U.S. ratification of the Convention was accompanied by a reservation requiring specific U.S. consent to the ICJ's jurisdiction in any case based on the Convention. The Court accepted the U.S. position. By an Order of June 2, the ICJ dismissed the case against the United States, as well as the similar case against Spain. The Court also denied the request for Provisional Measures in the eight other cases, and found *prima facie* that it did not have jurisdiction over the claims against any of the other eight respondents. On June 30, the Court ordered the Federal Republic of Yugoslavia to file its Memorial in the eight remaining cases by January 5, 2000. The eight respondents are to file their Counter-Memorials by July 5, 2000.

## **International Law Commission (ILC)**

The ILC, which first met in 1948, works to promote the codification and progressive development of international law. Its 34 members are persons of recognized competence in international law who serve in their individual capacities. They are elected by the General Assembly for five-year terms. Mr. Robert Rosenstock of the United States is serving his second term as a member of the Commission.

The Commission studies international law topics referred to it by the General Assembly or that it decides are suitable for codification or progressive development. It usually selects one of its members (designated as a “special rapporteur”) to prepare reports on each topic. After discussion in the Commission, the special rapporteurs typically prepare draft articles for detailed discussion by the members of the Commission. These are considered and refined in a drafting group prior to formal adoption by the Commission. The Commission reports annually on its work to the Sixth (Legal) Committee of the UN General Assembly.

At its 1999 session, the Sixth Committee carried on a substantial debate of the ILC's report on its 51<sup>st</sup> session. Governments' comments indicated widespread support for the Commission's work, and for its ongoing efforts to reform and improve the relevance, quality, and timeliness of its work.

At its 1999 session, the Commission completed and submitted to the General Assembly an impressive set of draft articles on the nationality of natural persons in case of succession of states. The draft articles place particular emphasis on the importance of protecting the rights of individuals in succession situations. The Commission also made progress toward its objective of finally concluding its long-running and important work on a set of articles on state responsibility. The Commission worked to clarify and simplify the state responsibility articles and to otherwise refine them in response to criticisms and suggestions from governments. It also continued work on guidelines concerning reservations to treaties and on several other topics.

The Commission's current work is based on a five-year work program established in 1997. This plan anticipates that each topic under consideration by the Commission either will be completed or brought to a defined transitional point by the end of the Commission's session in 2001. The Commission's goal is to ensure the orderly and efficient progress of its work and to lessen disruptions such as those resulting in the past from retirements of special rapporteurs or other personnel changes.

## **UN Commission on International Trade Law (UNCITRAL)**

UNCITRAL, established by General Assembly Resolution 2205(XXI) in 1966, has maintained a technically focused program on harmonizing national laws to promote trade and commerce. It continues to avoid political issues that may arise in the work of other bodies. With headquarters in Vienna, Austria, the Commission usually holds several weeks of working group meetings of experts annually on active topics, which are reviewed at its annual plenary session (see UN document A/54/17). The General Assembly's Sixth Committee (Legal) favorably reviewed the Commission's work (A/54/611), and the Assembly reaffirmed the role of UNCITRAL as the core legal body in the United Nations system on international trade law (A/RES/54/103, December 9, 1999).

### **Draft convention on commercial finance**

The Working Group on international contract practices finalized a draft convention text in four weeks of detailed negotiations, which will be submitted for final negotiation to the 55<sup>th</sup> plenary session in June 2000. The Working Group's efforts capped a four-year project to upgrade international commercial finance law standards, so that private sector capital markets may become more available to developing states and states in

transition. In many respects, this text reflects newer concepts of commercial law, the economic effect of which has been tested in markets in the United States, Canada, and other countries. The annex sets out the U.S.-supported proposal for an internationally based computerized registry system which could significantly assist extension of new credit to developing countries under this convention system (A/CN.9/456 and 466). Closely related projects which draw on the UNCITRAL text are under way at the International Institute for the Unification of Private Law and the Organization of American States.

### **International project finance**

With substantial input from the United States and other countries that provide project finance services, the Secretariat completed its draft legislative guide and model legislative provisions. They will be submitted to the Commission for final review and approval at its next plenary session. This effort is expected to facilitate the preparation of laws and regulations for countries seeking to expand, through international project finance, the provision of public services through increased use of private sector capital and management. While some developed countries have not supported the legislative changes that would be required, since those changes would conflict with their existing legal systems, the United States has successfully supported a modern approach to the provision of public services which combines private sector finance and methods with traditional public sector regulatory concerns (A/CN.9/458 Add. 1-8, and A/54/17 paras 12-307).

### **Electronic commerce**

The Working Group on international electronic commerce completed four weeks of meetings and narrowed the gap between diverging views on the extent to which new laws or regulations were needed to facilitate and validate electronic signature systems and message authentication technologies. The U.S.-supported minority position gained in its effort to narrow the extent to which a regulatory approach would be reflected in draft international rules. The same conflict was reflected in U.S.-European Union (EU) discussions; new EU draft directives on electronic commerce moved toward a position less in conflict with the United States as a result of the UNCITRAL deliberations. This work is expected to be completed in draft form in 2000 (A/CN.9/457 and 465).

### **Future work**

**International commercial arbitration.** At its 32<sup>nd</sup> plenary session in May-June 1999 (A/54/17), the Commission submitted to a new Working Group the task of reviewing proposals for work on international commercial arbitration and conciliation. Proposals included a continued review of implementation by states of the 1958 UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards, preparation of a model law

on conciliation, interim relief, enforceability of awards set aside in states of origin, requirements for written arbitration agreements, and sovereign immunity issues (A/CN.9/460).

**Cross-border insolvency of commercial entities.** Based on work at the International Monetary Fund (IMF) and the World Bank, as well as the support in a number of organizations and countries for the 1997 UNCITRAL model law on cross-border insolvency, the Commission agreed to set up on an urgent basis a Working Group meeting on future work on insolvency law. The Working Group met in December 1999 and recommended that the Commission authorize preparation of UN guidelines or draft legislative provisions on substantive insolvency law matters, with an emphasis on cross-border commerce, finance, and corporate activity. This would build on work at the IMF, the World Bank, and the Asian Development Bank. After considerable debate, it was agreed that this would include U.S. proposals on “private ordering,” so as to allow private sector agreements and financing where possible to seek to preserve businesses, especially in developing and financially distressed states, instead of initially proceeding through formal court and administrative procedures (A/CN.9/469).

### **Technical assistance and law unification**

The Secretariat, with the support of the United States and many states, continued its record of effective technical assistance primarily to developing countries in the field of implementation of modern trade law, including international conventions and other texts completed by the Commission (A/CN.9/461 and 462). These efforts have materially assisted modernization of commercial law in a number of states, and have been consistent with increased use of private sector methodologies and a corresponding reduction in state-run activities. The Commission’s work in modernizing commercial law has facilitated transactions made available through trade agreements or otherwise, but which are often difficult to realize if obstacles remain by virtue of older and incompatible legal standards. In this regard, the Commission continued to publish decisions of states under UNCITRAL conventions or other international trade law texts through its “CLOUT” system (Case Law on UNCITRAL Texts), which appears in the six official UN languages (A/CN.9/SER.C/Abstracts).

### **International Criminal Court (ICC)**

In 1998, a diplomatic conference, convened in Rome under UN auspices, adopted a treaty to create an international criminal court. The United States voted against the adoption of the Rome Statute. Although consistent with U.S. objectives in many respects, the Statute nonetheless contained a number of serious flaws. Thus the United States has neither signed nor ratified the treaty, which provides for entry into force when 60 countries have ratified it. By the end of 1999, 92 countries had signed and six had ratified the treaty.

The Rome Conference recommended a Preparatory Commission to prepare proposals for the practical arrangements for the establishment and coming into operation of the Court, including draft texts of the Rules of Evidence and Procedure, Elements of Crimes, and several other documents needed for the efficient functioning of the Court.

The United States participated in the three sessions of the Preparatory Commission held in 1999 (February 16–26, July 26–August 13, and November 29–December 17), with a view toward ensuring that the elements of crimes were defined consistent with international law and that important provisions adopted in the Rome Statute were not weakened through the Rules of Procedure. In 1999, the Preparatory Commission completed a first draft of the Elements of Crimes, made substantial progress on the Rules of Procedure, and held preliminary discussions on the definition of aggression.

The United States remained concerned that the Rome Statute's jurisdictional provisions—especially as applied to nationals of states that have not joined the Treaty—go beyond what is permissible under international law and risk inhibiting responsible international military efforts in support of humanitarian or peacekeeping objectives.

On December 9, the UN General Assembly adopted, by consensus, Resolution 54/105, which noted the adoption of the Rome Statute and the Final Act establishing the Preparatory Commission. The resolution requested that the Secretary General convene the Preparatory Commission from March 13–31, June 12–30, and November 27–December 8, 2000, to carry out the Final Act and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court. The General Assembly further decided to place the establishment of the International Criminal Court on its proposed agenda for its 55<sup>th</sup> session.

## **UN Decade of International Law**

The conclusion of the UN Decade of International Law was 1999. For ten years, the Decade has been a focal point and catalyst for activities in the United States and abroad aimed at developing and strengthening international law. The Decade was authorized by Resolution 44/23 of November 17, 1989, in which the General Assembly declared the years 1990–1999 as the UN Decade of International Law. The major goals of the Decade were to promote acceptance of and respect for the principles of international law; promote means and methods for the peaceful settlement of disputes between states, including resort to and full respect for the International Court of Justice; encourage progressive development of international law and its codification; and encourage the teaching, study, dissemination, and wider appreciation of international law.

The Decade's final year was marked by two important conferences organized by the governments of the Netherlands in the Hague and of Rus-



sia in St. Petersburg to mark the Centennial of the 1899 Hague Peace Conference. U.S. officials participated actively in both conferences. The conferences were noted with appreciation by the General Assembly in Resolution 54/28 (November 17, 1999), which also summarized the accomplishments of the Decade.

The Decade of International Law provided an opportunity for numerous activities in the United States and abroad aimed at strengthening international law. Many of these were focused on the Decade's final goal, of encouraging the teaching, study, dissemination, and wider appreciation of international law. The years of the Decade were marked by a significant increase in the availability of international legal materials through the medium of the Internet. For example, the International Court of Justice (ICJ) launched a highly successful Internet web site, providing immediate access to ICJ judgments and oral pleadings. The United Nations Secretariat has also worked to implement a program of providing Internet access to UN treaty information, and many other on-line sources of international law information were put into operation.

Under its Rule of Law Program, the United States provided grants to governments and nongovernmental organizations to enable them to gain access to the Internet and computer databases containing treaty texts and other international legal materials. The United States actively supported the Decade and encouraged U.S. bar associations and other relevant organizations to actively participate.

## **Host Country Relations**

The UN General Assembly established the Committee on Relations with the Host Country in 1971 to address issues relating to the implementation of the UN Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations. In 1999, in accordance with UN General Assembly Resolution 53/104, the size of the committee was increased from 15 members to 19 with one new member each from African, Asian, Latin American and Caribbean, and Eastern European countries. The new members selected by the President of the General Assembly were Libya, Malaysia, Cuba, and Hungary.

Committee discussion during 1999 focused primarily on travel restrictions, indebtedness, and the parking of diplomatic vehicles. The General Assembly adopted a resolution, "Report of the Committee on Relations with the Host Country," (Resolution 54/104) by consensus on December 9. The resolution once again requested that the United States, as the host country, consider removing the remaining travel controls on some countries' missions and Secretariat staff of certain nationalities. It called upon the host country to continue its efforts to resolve problems related to the parking of diplomatic vehicles, and requested that the host country continue to take all measures necessary to prevent any interference with the

functioning of missions. Finally, the resolution reflected the Committee's appreciation to the host country for its efforts.

## **International Terrorism**

In 1999, the UN General Assembly adopted two resolutions on terrorism: "International Convention for the Suppression of the Financing of Terrorism" (Resolution 54/109) and "Measures to Eliminate International Terrorism" (Resolution 54/110). The Security Council also passed Resolution 1269 during its thematic debate about terrorism.

UN General Assembly Resolution 54/109 adopted the "International Convention for the Suppression of the Financing of Terrorism," and asked the Secretary General to open it for signature at the United Nations from January 10, 2000, to December 31, 2001. The United States signed this important Convention on the first day it was open for signature. The Convention will enhance international efforts to combat terrorism by expanding the legal framework for international cooperation in the investigation, arrest, prosecution, and extradition of persons who engage in terrorist financing. The Convention also obligates states parties to cooperate in preventing the financing of terrorism, and outlines a series of measures for states parties to take to help identify and suppress acts of terrorist financing.

UN General Assembly Resolution 54/110 reaffirmed the "Declaration on Measures to Eliminate International Terrorism," adopted in 1994 and supplemented in 1996. The Declaration unequivocally condemned all acts, methods, and practices of terrorism, and also reaffirmed that perpetrators of terrorist acts are excluded from refugee protection. The resolution also urged all member states that have not yet done so to become parties to the 11 conventions outlawing different manifestations of international terrorism.

The resolution on "Measures to Eliminate International Terrorism" included, in addition, a decision to have the *ad hoc* Committee, which was established by the General Assembly in 1996, continue its work, with meetings scheduled in February 2000 and during the General Assembly in the fall of 2000. In its February session, the *ad hoc* Committee is charged with continuing its work on the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and with addressing the question of convening a high-level conference on international terrorism under the auspices of the United Nations. In its fall session, the *ad hoc* Committee is charged with beginning consideration of a comprehensive convention on international terrorism.

## **Strengthening the Role of the United Nations**

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (Charter Committee) held its 24<sup>th</sup> annual session April 12–23. A resolution adopting the report

of the Committee's work, and a resolution on its agenda item concerning "Implementation of Charter Provisions Related to Assistance to Third States Affected by the Application of Sanctions," were debated and adopted during the UN General Assembly Sixth Committee meetings in the fall. The resolutions were subsequently adopted, without votes, by the General Assembly on December 9 (Resolutions 54/106 and 54/107).

The Special Committee recommended to the General Assembly that it continue to consider, in an appropriate substantive manner and framework, the report of the Secretary General on the results of the June 1998 *ad hoc* expert group meeting on methodological approaches to assessing the third-country effects of sanctions. The Special Committee also urged that the General Assembly invite the Secretary General to submit his own commentary on the expert group's report, including information on relevant work of the sanctions committees and other developments on this subject.

The Special Committee also addressed the matter of practical ways and means of strengthening the International Court of Justice while respecting its authority and independence. The Committee recommended in this regard that the General Assembly support continued efforts by the Court to expedite its proceedings and to otherwise operate its increased workload with maximum efficiency. The Special Committee's recommended actions with respect to both the Court and the aforementioned sanctions issue were subsequently taken by the General Assembly.

## **International Criminal Tribunals for Rwanda and the former Yugoslavia**

The International Criminal Tribunals for Rwanda and the former Yugoslavia have jurisdiction for the prosecution of those believed to have committed genocide, crimes against humanity, and other serious violations of international humanitarian law. The UN Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in May 1993, and the International Criminal Tribunal for Rwanda (ICTR) in November 1994. The Tribunals share a Chief Prosecutor, Carla del Ponte of Switzerland, who assumed the position in August 1999 following the resignation of Louise Arbour of Canada. The Chief Prosecutor and Deputy Prosecutor are located in The Hague, The Netherlands. The ICTY has a staff of 832, representing 68 countries. The Rwanda Tribunal, with a staff of 729 representing more than 80 nationalities, hears cases in Arusha, Tanzania; the office of its Deputy Prosecutor is located in Kigali, Rwanda.

As of the end of 1999, the ICTY had publicly charged 92 individuals (including 12 previously sealed indictments that are now public) with genocide and other serious violations of international humanitarian law. By the end of the year, 43 indictees were in custody, while 31 public indictees remained at large. At year's end, the ICTY had closed 2 cases (6

decisions are being appealed), begun 12 trials, and initiated 16 pre-trial proceedings.

On June 10, the Security Council adopted Resolution 1244, recalling the jurisdiction and mandate of the ICTY, and demanding full cooperation with the Tribunal by all concerned, including the international security presence. Similarly, on November 11, the Third Committee of the UN General Assembly adopted, by a vote of 123(U.S.) to 0, with 20 abstentions, the resolution “The Situation of Human Rights in Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia (Serbia and Montenegro).” When later introducing this resolution to the General Assembly, the U.S. delegate noted, “although serious problems remain with the Republika Srpska, both Bosnia and Herzegovina and the Republic of Croatia have made notable strides in cooperating with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and in bringing individuals to justice. We must note that the Federal Republic of Yugoslavia (Serbia and Montenegro) refuses to comply meaningfully with its human rights obligations under Dayton....This country, and the Republika Srpska entity of Bosnia and Herzegovina, continue to harbor indicted war criminals and fail to meet their obligations.”

Although progress has been made since the 1997 report of the UN Office of Internal Oversight Services on mismanagement of the ICTR, the United States and other governments continue to press the ICTR to improve its efficiency and effectiveness. By year’s end, the ICTR had issued 29 indictments against 50 individuals, of which 40 are in custody and two are in detention pending transfer to Arusha. In 1999, the ICTR convicted four individuals, raising the number of convictions to six. However, four of these six convictions are being appealed. In November, the Appeals Chamber of the ICTR dismissed the indictment of Jean-Bosco Barayagwiza after ruling that his due process rights, including a speedy trial, had been violated, and ordered his release from custody. Nevertheless, pending a review of the Appeals Chamber decision, his release was suspended. Barayagwiza was the leader of an extremist ethnic Hutu party involved in the massacre of ethnic Tutsis during the 1994 genocide in Rwanda. He had served as Director of Political Affairs in the Ministry of Foreign Affairs of Rwanda during the time of the genocide, and was a founding member of the *Radio Television Libre des Milles Collines*. He was charged with six counts of genocide, complicity in genocide, conspiracy to commit genocide, direct and public incitement to genocide, and crimes against humanity.

The United States is the largest financial contributor to both the ICTY and the ICTR. In fiscal year 1999, U.S. assessed contributions were approximately \$42.5 million. The United States provided another \$15 million in voluntary contributions, including two Federal Bureau of Investigation deployments to Kosovo. The United States continues to provide information to assist the ICTY and ICTR in their investigations.

## **Law of the Sea**

The UN Convention on the Law of the Sea (LOS Convention) entered into force on November 16, 1994. Partly to meet U.S. concerns, a supplementary “Agreement Relating to the Implementation of Part XI” (Deep Seabed Mining) was negotiated in 1994, and entered into force on July 28, 1996. At the end of 1999, 132 states had ratified the Convention, and 96 states had ratified the Agreement.

The United States supports the LOS Convention as modified by the 1994 Agreement and applied the Agreement on a provisional basis, in accordance with its terms. Provisional application of the Agreement terminated, however, in November 1998. The administration is working to obtain the necessary advice and consent of the Senate to permit accession to the Convention. Taken together, the Convention and the Agreement meet a basic and long-standing objective of U.S. oceans policy: conclusion of a comprehensive Law of the Sea Convention that will be respected by all nations.

The International Seabed Authority (ISA) held its fifth session in August 1999. All four of its organs—the Assembly, the Council, the Legal and Technical Commission, and the Finance Committee—met. The ISA Council began consideration of the draft Regulations on Prospecting and Exploration for Polymetallic Nodules. The meeting also approved the budget for fiscal year 2000.

The International Tribunal for Law of the Sea, also a LOS body, continued proceedings in cases involving prompt release of a vessel, seizure of a vessel, and southern blue fin tuna. The states parties met and approved the Tribunal’s 2000 budget. The budget was slightly increased to take account of the Tribunal’s caseload.

At its 62<sup>nd</sup> Plenary meeting on November 24, the General Assembly adopted a three-part resolution on the Law of the Sea, fisheries, and sustainable development in the oceans and seas. It also called for an informal consultative process on oceans and seas to be convened in the spring of 2000.

